

REMARKS

Claim 13 has been canceled. Claims 1, 5-9, 14, and 18-22 have been amended. Thus, claims 1-12 and 14-23 remain presented for examination. Support for the claim amendments may be found in the original claims and throughout the specification, for example at page 2, lines 8-10, and page 3, lines 13-14. Thus, no new matter has been added. Reconsideration and withdrawal of the present rejections in view of the amendments and comments presented herein are respectfully requested.

35 U.S.C. § 112, second paragraph rejections

The Examiner rejected claims 13-22 under U.S.C. § 112, second paragraph, as being indefinite based on recitation of “substantially as herein described with reference to Example 1 or 2” in claim 13, and recitation of “for the purpose of imparting tamper evident properties” in claim 14. Claim 13 has been canceled. Claim 14 as amended specifies that the tamper-evident properties are directed to a labeled product.

In view of the claim amendments, reconsideration and withdrawal of the rejection under U.S.C. § 112, second paragraph are respectfully requested.

35 U.S.C. § 103(a) rejections

The Examiner rejected claims 1-23 under 35 U.S.C. § 103(a) as being unpatentable over EP 0 470 760 A2 taken in view of EP 0 403 161. The Examiner alleges that one of ordinary skill, motivated by an expectation of improving the tamper resistant properties in label films such as those disclosed by EP '760, would be sure to choose HDPE films having the requisite density range as suggested by the polypropylene cores of the examples in EP '161 (0.6g cm^{-3}) in order to obtain the desired properties. However, as discussed below, the combination of these references would not lead to the claimed invention.

Establishing *prima facie* obviousness requires not only a showing that a combination of prior art teachings is possible, but also that the teachings would have 1) motivated the skilled artisan to make the combination to arrive at the claimed invention, and 2) suggested to the skilled artisan a reasonable likelihood of success in making and using the claimed invention. *See In re Dow Chem. Co.* 837 F.2d 469, 473 (Fed. Cir. 1988). Absent a showing of such motivation and suggestion, *prima facie* obviousness cannot be established. As explained

below, in the present case neither the required motivation nor the required likelihood of success are present.

EP '760 discloses a technique for making synthetic paper with a core layer of voided high density polyethylene (HDPE); however, the claimed density range of not more than 0.6 g cm⁻³ is neither disclosed nor suggested. EP '161 is primarily concerned with films made wholly or largely of polypropylene (PP), not HDPE as recited in the present claims. Although polyethylene is mentioned in EP '161 as a possible alternative to polypropylene, no density ranges of polyethylene films are disclosed or suggested. In fact, the only mention of density in EP '161 is in Example 1, which teaches a polypropylene film having a density of .60 gm/cc (see page 6, line 10). In addition, all of the examples in EP '161 relate to polypropylene films. There is no motivation provided by the cited references to introduce voids into HDPE so as to reduce its density to the range recited in the present claims simply because a different material having a density encompassed by the present claims is disclosed by EP '161. In addition, this density is mentioned as an afterthought, and is not taught to have any effect on the strength of the resulting film. Because EP '161 does not teach that film density has any impact on the final film, one of ordinary skill in the art would not even have motivation to introduce voids into the same type of film (HDPE), much less a different type of film, such as the polypropylene recited in the present claims. Since one of ordinary skill would have no motivation to produce a film recited in the claims, no *prima facie* showing of obviousness has been set forth.

Moreover, no reasonable likelihood of success can be established on the basis of the cited references and the level of skill in the art. The polypropylene materials of the present invention are different both structurally and functionally from the HDPE films disclosed in EP'760. Thus, a polypropylene film having a density of .60 gm/cc would not necessarily be suitable when combined with the technique described in EP '760. Although it may be "obvious to try" polypropylene in place of polyethylene, this is not the proper obviousness standard. There must also be a reasonable expectation of success. Because the two materials have different properties, one of ordinary skill in the art would not reasonably expect that polypropylene could be substituted for polyethylene as presently claimed.

In view of the amendments and comments provided above, reconsideration and withdrawn of the rejections under 35 U.S.C. § 103(a) are respectfully requested.

CONCLUSION

In view of the amendments and remarks, the pending claims are distinctly patentable over the cited prior art on record. Applicants respectfully submit that the application as amended above is now in a full condition for allowance and an official notice of allowance should be issued at an early date.

Respectfully submitted,

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